

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of)
)
Amendment of the)
Commission's Rules)
Concerning Maritime)
Communications)

PR Docket No. 92-257

DOCKET FILE COPY ORIGINAL

To: The Commission

REPLY COMMENTS OF THE
ASSOCIATION OF AMERICAN RAILROADS

The Association of American Railroads ("AAR"), by its undersigned counsel and pursuant to Section 1.45 of the Commission's Rules, hereby submits its reply to comments filed in response to the Further Notice of Proposed Rule Making ("FNPRM") in the above-referenced proceeding. The FNPRM proposed to allow maritime mobile users access to railroad radio frequencies.

I. Background

AAR emphasized in its comments that allowing maritime users to share railroad frequencies would be particularly risky and dangerous due to the severe congestion already existing in the bands at issue and the critical safety applications of railroad radio communications. Adding to the danger is the fact that the Commission's proposed separation criteria are inadequate to protect railroad operations because they fail to account for mobile-

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to-mobile and duplex use, as well as certain propagation characteristics common to maritime use, such as skip, sporadic E, and ducting. In addition, despite the Commission's announcement that it would "limit" sharing to within sixteen kilometers of any coast line or navigable waterway, the FCC's accepted definition of the term "navigable waterway" is too broad to impose any meaningful limit on maritime use of railroad radio frequencies. Lastly, AAR pointed out that requiring railroad users to share their already congested frequencies before requiring the maritime users themselves to institute spectrum efficiency measures would be inequitable and would hamper the railroads' transition to narrowband technology.

II. Argument

The American Trucking Association ("ATA") echoed many of AAR's concerns regarding sharing with the maritime mobile users. ATA explained that frequency congestion is particularly intense in the coastal areas where the Commission has proposed allowing maritime users to share railroad and motor carrier frequencies:

Most all large coastal cities in the U.S. have heavy harbor activities and facilities requiring containerized cargo handling. Special traffic corridors have been constructed to allow for convenient container movement along the coast by both motor carriers and railroads.^{1/}

^{1/} Comments of ATA in PR Docket No. 92-257 at 2 (filed September 22, 1995).

Even the United States Coast Guard ("USCG"), which expressed support for the Commission's sharing proposal, noted that "frequencies used by railroads also need to be protected."^{2/}

By contrast, Mobile Marine Radio, Inc. ("MMR"), American Commercial Barge Line Company ("ACBL") and Waterway Communications Systems, Inc. ("WATERCOM") all relied on the same rationale to support sharing of railroad frequencies. They argued that maritime users should be allowed access to railroad and motor carrier frequencies because the Commission recently permitted Industrial/Land Transportation ("I/LT") users access to maritime frequencies in landlocked areas.^{3/}

The fatal flaw in this rationale of reciprocity is that the justification for sharing in the First Report and Order does not hold true for the railroads. Indeed, as AAR explained in its comments, it did not join in the request for maritime frequencies, nor does it intend to make use of the maritime frequencies which were the subject of that proceeding.^{4/} The reasons why the railroads do not intend to share maritime channels are the same reasons why AAR opposes sharing railroad frequencies with maritime users.

^{2/} Comments of USCG in PR Docket 92-257 at 5 (filed September 21, 1995).

^{3/} Comments of MMR in PR Docket No. 92-257 at 18-19 (filed September 22, 1995), Joint Comments of ACBL and WATERCOM in PR Docket No. 92-257 at 8 (filed September 22, 1995). These comments refer to the decision in Amendment of the Commission's Rules Concerning Maritime Communications, First Report and Order in PR Docket No. 92-257 at ¶¶ 2-14 (May 26, 1995)(hereafter "First Report and Order").

^{4/} Comments of AAR in PR Docket No. 92-257 at 5, n.8 (filed September 22, 1995).

The Commission presented two main reasons to support its view that I/LT users are "ideal candidate[s]" for sharing maritime frequencies. Neither of these reasons apply to railroad radio use. First, the Commission claimed that many I/LT licensees "operate in rural areas far from navigable waterways."^{5/} Second, the Commission stated that, "unlike most public safety operations, I/LT communication requirements may be able to tolerate licensing on a secondary basis."^{6/}

In response to the Commission's argument regarding distance from navigable waterways and U.S. coast lines, AAR pointed out that railroads commonly track the U.S. coast line, rivers and other waterways.^{7/} Indeed, the major port areas are of necessity linked with rail networks. The two transportation systems are complementary; one picks up where the other leaves off. Furthermore, the Commission's declared intent to "limit" maritime sharing of railroad frequencies to within a certain distance of "navigable waterways" is frustrated by its own expansive definition of the term.^{8/} Thus, the close geographic relationship between the two services and the broad definition of "navigable waterway" adopted by the Commission undermine a fundamental premise of the

^{5/} First Report and Order at ¶ 9.

^{6/} Id.

^{7/} AAR comments at 6.

^{8/} NPRM at ¶ 35. The Commission adopted the definition set forth in 33 C.F.R. § 2.05-25 which is so broad as to include almost any body of water.

Commission's proposal -- that sharing is possible because the two services commonly operate in distinct and separate geographic areas.

The Commission's second reason for allowing I/LT users to share maritime frequencies leads to two important observations. First, by stating that I/LT communication requirements, "unlike most public safety operations," may be able to tolerate licensing on a secondary basis, the Commission acknowledged that public safety operations are not able to tolerate secondary status. The second observation is that the Commission has improperly viewed all I/LT users in the same category with respect to the absence of a public safety mission in their use of mobile radio technology. In this regard, railroad radio communications have unique safety functions which entail sharing risks not found in other I/LT services. Indeed, the goal of promoting safety was a prime consideration in the establishment of the Railroad Radio Service in 1945,^{9/} and safety applications continue to be a dominant focus of railroad voice and data radio communications. For example, along the railroad right-of-way defect detectors warn of overheated axles, malfunctioning brakes, shifted cargo, and loose equipment on the undercarriage of trains; dispatch-to-train and train-to-dispatch communications permit the relay of information concerning orderly and safe train movement; and mobile-to-mobile communications are used by security services in rail yards and on trains as well as by switch crews engaged in the assembly and disassembly of trains.

9/ The Commission held that, "a properly engineered railroad radio service would contribute to the safety of life and property, both in preventing rail accidents and in reducing the seriousness of injury and damage after accidents, by permitting the prompt summoning of aid." General Mobile Radio Service, 13 FCC 1190, 1199-1200 (1949).

The present day realities of railroad operations -- the high speed of train movement, the density of rail operations in highly populated shipping and rail centers, the value of cargo, the transportation of hazardous materials, as well as the presence of passengers and crew -- make safety a preeminent concern and make the instantaneous relay of safety-related information an absolute imperative. Whatever advantages may accrue to the maritime service from sharing railroad frequencies are not worth the consequent risk to secure and effective railroad communications.

The Commission's proposed separation criteria do little, if anything, to alleviate the threat to railroad radio communications posed by sharing with maritime mobile users. In fact, maritime radio use, by the maritime users' own admissions, suffers from propagation abnormalities which highlight the inefficacy of the Commission's proposed separation criteria. MMR admitted that propagation abnormalities ("skip") "occur on a repeated basis" in the operation of "VHF Public Coast Stations located on the Gulf Coast and in the southern half of the continental United States, if not elsewhere."^{10/} MMR explained that when these conditions exist, "the standards established to assist in determining coverage protection criteria...no longer are applicable." AAR detailed the problems involving ducting in its own comments.^{11/} MMR's confirmation of AAR's concern reveals a serious risk of harmful interference to railroad communications if sharing is allowed.

^{10/} MMR comments at 7.

^{11/} AAR comments at 9.

Finally, MMR's statement that "narrow-banding should create increased sharing opportunities"^{12/} completely misses the point of the Commission's refarming plan and underscores a serious inequity in the proposal to allow maritime users to share railroad frequencies. There are currently over twelve million Private Land Mobile Radio ("PLMR") transmitters in the PLMR bands. Congestion and pent-up demand, two of the prime reasons for refarming, are at critical levels. To suggest that PLMR users should make the massive investment in time and resources to convert to narrowband in order to make sharing easier for the maritime users simply does not make sense. If congestion of maritime frequencies is a concern to maritime users, then the Commission should implement a narrowband transition plan in the maritime frequencies as it is currently doing for PLMR users.

Conclusion


In summary, out of the total number of comments received in this proceeding, only four explicitly supported the Commission's sharing proposal, and one of those four, the Coast Guard, emphasized that railroad frequencies had to be protected. The other three maritime users supported sharing on the basis that they are required to share their own frequencies with I/LT users. Those maritime users who justified sharing on the basis of reciprocity, however, failed to acknowledge or comprehend that the railroads' have safety concerns which render sharing a very dangerous proposition. AAR has demonstrated that

^{12/} MMR comments at 18-19.

sharing will compromise the railroads' ability to ensure safety of operations by aggravating already severe congestion and by increasing the threat of interference. AAR has also shown that the Commission's separation criteria fail to protect railroad operations. Lastly, allowing maritime users to share railroad channels will preclude uniform channel assignments in the railroads' transition to narrowband, thereby endangering the railroads' interoperability requirements. For the foregoing reasons, the Commission should first attempt to address maritime congestion through spectrum efficiency measures in the maritime bands before it allows maritime users to have access to railroad frequencies.

Respectfully submitted,

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